

REMARKS

The Office Action mailed February 14, 2006 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Rejection(s) Under 35 U.S.C. § 102

Claims 64-68, 80-84, 92, 93, and 104-108 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Iannucci et al. (U.S. pat. no. 6,219,698, hereinafter, Iannucci).

The Office Action equates firmware with software. The Office Action justifies this characterization on the absence of an express definition of firmware in the specification. Applicants respectfully traverse, pointing out that the ordinary and accustomed meaning of firmware, upon which applicants rely, is different from that of software. Those of ordinary skill in the art would recognize this difference whether or not a definition of firmware is expressly provided in the specification. Firmware is a set of instructions programmed on a hardware device and normally stored on a ROM or EPROM or similar non-volatile memory. It provides the necessary instructions for how the device communicates with the other computer hardware. Importantly, the firmware program stored in the EPROM chip may be modified by special external hardware, but not by a general purpose application program. This is different Iannucci, which seeks to automate update of a software program such as an application program based on an established communications link between a client and a server.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.¹ The aforementioned reasons clearly indicate the contrary, since firmware and software cannot be equated with one another and since Iannucci is

¹ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

not directed to firmware, and withdrawal of the 35 U.S.C. § 102 rejection based on Iannucci is respectfully urged.

Conclusion

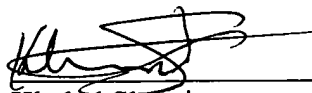
In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,
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